

Senate Bill 795

Maryland Electricity Reregulation and Energy Independence Act of 2009

Senate Bill 844

Public Service Commission – New Electric Generation Facilities – Rate Regulation and Contracts

Senate Finance Committee

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Testimony By:

Kevin Hughes, Deputy Legislative Officer
Malcolm Woolf, Director, Maryland Energy Administration

The Administration offers its support for Senate Bill 795 and Senate Bill 844 with amendments to incorporate the Governor's plan to prospectively reregulate Maryland's electricity markets. The Administration commends the sponsors of both bills for laying out a framework for the State to take back its energy future and protect the interests of Maryland ratepayers.

The Governor has proposed to reregulate Maryland's energy markets going forward for one simple reason: deregulation has failed. The promise of deregulation was that competition would deliver the electricity we need to keep the lights on and would drive prices down. That didn't happen. When supply and demand decisions are left to a marketplace that is not working, they get made according to corporate motives, not according to the public interest. With the attached amendments, regulators will control the decision-making process and, more to the point, the motivation that drives decisions about what to build and when.

The Failure of Deregulation

Evidence that deregulation has failed, and that reregulation is needed, includes:

- Since deregulation came in 1999 there has been no new generation of substantial size built in Maryland.

- Deregulation has produced continually higher prices for electricity. Maryland continues to import over 30% of its energy from nearby states and is dependent on wholesale markets and transmission.
- Deregulation has resulted in projected electricity shortages during peak demand and potential rolling blackouts in the next several years.
- Most decisions about the electricity supply and demand mix are made by private interests, not according to the public interest.

A Framework to Reregulate the Electricity Markets

Under the Governor's proposed legislation, the Public Service Commission (PSC) will have the authority to regulate all future energy generation in our State when it is in the public interest. Components of the prospective reregulation plan include:

Integrated Resource Planning. The proposal will require the PSC to perform all resource planning for the electricity needs of the State of Maryland. The PSC will determine what generation we need, when we need it, and how to acquire it. The PSC will decide when to build new generation, what fuel type (including renewables), and whether alternative resources, such as demand response and energy efficiency, are superior to generation. All options are open so that ratepayers get the best deal, but the PSC will manage the supply/demand mix for the ratepayers of the State of Maryland.

Future Generation. Future generation will be rate-regulated if the PSC determines that it is in the public interest. The Commission will have the authority to order an electric company to: (1) build an electric generation facility or (2) procure electricity through a bilateral contract or a competitive bidding process, on a rate-regulated basis. An electric generation facility that has an application or certificate for public convenience and necessity (CPCN) as of March 1, 2009 would be exempt from this process.

Acquiring New Sites. The proposal will reinstate the authority the PSC had prior to deregulation to direct a Maryland utility to exercise eminent domain, if necessary, to acquire sites for new generation.

Existing Generation. Existing merchant plants will stay merchant plants, and facilities with granted or pending CPCNs can still get built as merchant plants.

Customer Classes and Customer Choice. The integrated resource planning process will include all customer classes. The proposal recognizes that there cannot be comprehensive, State-wide planning if customers can opt out and directs the PSC to evaluate and manage an orderly transition from the current choice regime to the new regime.

The Administration proposes the attached amendments to Senate Bill 795 and SB 844 to implement the Governor's prospective reregulation plan. We look forward to

working with the Senate Finance Committee to move Maryland forward and take control of our energy future.